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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/840,179	05/05/2004	Hans-Ernst Beyer	10191/3511	5585
26646	7590	09/08/2005	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			JENKINS, JERMAINE L	
		ART UNIT		PAPER NUMBER
		2855		

DATE MAILED: 09/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/840,179	BEYER ET AL.
	Examiner Jermaine Jenkins	Art Unit 2855

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3 and 8-13 is/are rejected.
- 7) Claim(s) 4-7 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 05 May 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3 & 10-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Miwa et al (5,964,820).

In regards to claims 1, 10 & 12, Miwa et al teaches engine diagnostic system having a pressure differential between an intake-manifold pressure and a pressure in the ventilation duct (ventilation duct is being interpreted as an exhaust due to the fact that a ventilation duct and exhaust perform air transferring capabilities) (Column 1, lines 41-52).

With respect to claims 2, 11 & 13, Miwa et al teaches wherein the ventilation system includes a tank ventilation system (i.e. exhaust gas recirculation system) (Column 2, lines 51-60).

With respect to claim 3, Miwa et al teaches generating a first pressure differential between the intake-manifold pressure and the pressure in the ventilation duct, wherein the determining step includes determining a fault in the ventilation system if the first pressure differential exceeds a first preselected value (i.e. predetermined value) (Column 1, lines 48-52).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 8 & 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miwa et al (5,964,820) in view of Gartner (6,029,451).

With respect to claims 8 & 9, Miwa et al teaches the claimed invention except for a maximum value from at least one of pressure differential and the intake-manifold pressure and a minimum value from the intake-manifold pressure.

Gartner teaches a internal combustion engine diagnosis system having a maximum value from at least one of pressure differential and the intake-manifold pressure and a minimum value (Column 5, lines 46-53). It would have been obvious to one having ordinary skill in the art at the time the invention was made to set maximum and minimum values as taught by Gartner in the system of Miwa et al for the purpose of precisely determining the actual measured values so that extremely low measured values will not be generated (Column 5, lines 50-53).

Allowable Subject Matter

5. Claims 4-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter: The prior art does not disclose or suggest a internal combustion engine generating a first pressure differential between the pressure in the ventilation duct and the intake-manifold pressure and generating a second pressure differential between the ambient pressure and the pressure in the ventilation duct, wherein the determining step includes determining a fault in the ventilation system if the first pressure differential is greater than the second pressure differential.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermaine Jenkins whose telephone number is 571-272-2179. The examiner can normally be reached on Monday-Thursday 7am-530pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 571-272-2180. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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ERIC S. McCALL
PRIMARY EXAMINER